

CHAPTER 1

DELEGATION OF AUTHORITY

I. INTRODUCTION

In order for the agency to implement a continuing affirmative employment program to promote equal employment opportunity and to identify and eliminate discriminatory practices and policies, the agency shall appoint a Director of Equal Employment Opportunity, who shall be under the immediate supervision of the agency head. 29 C.F.R. § 1614.102(b)(3).

II. DIRECTOR OF EEO MUST HAVE INDEPENDENT AUTHORITY

Agencies must avoid conflicts of position or conflicts of interest as well as the appearance of such conflicts. For example, the same agency official(s) responsible for executing and advising on personnel actions, may not also be responsible for managing, advising, or overseeing the EEO pre-complaint or complaint processes. Those processes generally challenge the motivations and impacts of personnel actions and decisions. In order to maintain the integrity of the EEO investigative and decision making processes, those functions must be kept separate from the personnel function.

Agencies should also be cautious of excessive intrusion on the investigative and deliberative processes of EEO complaint resolutions by agency representatives and offices responsible for defending the agency against complaints. Maintaining some distance between the fact-finding and defensive functions of the agency enhances the reliability of the EEO office and the integrity of the EEO complaints process. Legal sufficiency reviews of EEO matters are best handled by a functional unit apart from the unit which handles agency representation in EEO complaints. This is suggested by the Commission because impartiality or the appearance of impartiality is important to the credibility of the equal employment program.

For example, it would be excessively intrusive for the individual who represented the agency in an equal employment hearing to have authority to approve decisions with respect to resolution in the same or related cases. It may also be improper for members of the functional unit of the office where the representative is

employed to have the legal sufficiency function with respect to cases in which a colleague served as agency representative.

III. AUTHORITY TO DELEGATE OTHER FUNCTIONS

The agency, through the Director of Equal Employment Opportunity, shall have the authority to designate Equal Employment Opportunity Officer(s) and such Special Emphasis Program Managers, clerical and administrative support as may be necessary to carry out the functions described in Part 1614 in all organizational units of the agency and at all agency installations.
29 C.F.R. § 1614.102(b)(3).

Special Emphasis Program Managers may include managers of the Program for People with Disabilities, the Federal Women's Program, Hispanic Employment Program and such other programs as may be required by the Office of Personnel Management or the particular agency.

An agency head may delegate authority under this part to one or more designees. § 1614.607.

IV. EEO OFFICIALS CANNOT SERVE AS REPRESENTATIVES

EEO counselors, EEO officers, and EEO program managers have vital roles in the resolution of discrimination complaints and to operate effectively they must have the confidence of both the agency and the employees. It is inconsistent with their neutral roles for EEO counselors, EEO officers, and EEO program managers to serve as representatives for agencies or complainants. Therefore, EEO counselors, EEO officers, and EEO managers cannot serve as representatives for complainants or for agencies in connection with the processing of discrimination complaints. *See generally*, 29 C.F.R. § 1614.605(c) (disqualification of representatives for conflict of duties).